because of this? We don't know. We may never know the answer. But it is our duty to get the facts and have a full accounting from the bankers.

During these ''Days of Remembrance'' of the Holocaust, it is our duty to go forward to try to achieve some measure of justice for those who cannot fight for themselves. In memory of those who died in the Holocaust, and the people who still act courageously, like Christophe Meili, we must continue the inquiry so that the full truth be known.

This past Tuesday, Mr. President, Mr. Meili came before the Banking Committee. His testimony was chilling, to say the least. As we reached the end, I asked him several questions. I turn to page 40 of the transcript. Mr. President, let me say that this was not a Q and A in which the questions were known to the person who was being asked, nor did I have any idea or know how Mr. Meili—the 28-year-old bank guard who came from Switzerland this past Friday, and is in this country now—would respond. I said:

Let me, if I might, just ask several other questions, and then put some letters . . . into the record.

And I turned to him and I said:

What made you, Christophe, think that the records you found were important and should be saved from destruction?

Through his interpreter, Mr. Meili said this:

A few months before, I had seen the movie ''Schindler's List.'' And that's how, when I saw these documents, I realized I must take responsibility; I must do something.

He is a 28-year-old bank guard in Switzerland. He did something that was right, that was courageous. He is a non-Jew, but he had seen ''Schindler's List'' and he was moved, he was compelled to respond, to stop the shredding of these documents or the destruction, to report them to someone, and to say should this be done?

And then, Mr. President, if that wasn't chilling enough—and, really, it seems to me a call for those of us who have the power and the responsibility of righting these wrongs—I asked him if there were any closing remarks he would like to make, that we would be glad to receive them. I asked that question of the three witnesses who appeared before us. Here is what Mr. Meili said:

Please protect me in the United States and in Switzerland. I think I become a great problem in Switzerland. I have a woman, two little children, and no future. I must see what goes on in the next days for me. Please protect me. That is all. Thank you, Mr. Chairman.

Mr. President, it is not good enough for the Swiss Ambassador to say, ''You can't hold us responsible for what took place 50 years ago,'' when a young man who has attempted to do what is right finds himself ostracized, finds the power of the Swiss Government and the Swiss banks—who indeed run the Swiss Government, as a practical matter—and that remark may draw their ire and their fire and their protest, that a young man who acted courageously now finds himself a victim scorned, the lives of his wife and children threatened. How can we do any less than what one individual, Christophe Meili, attempted to do, and that is to do what is right?

So, Mr. President, I hope that this week when we have these hearings, this will be a new beginning and it will energize our Government and our allies to come forward in a united way, to put aside the diplomatic niceties that have shrouded this over the years, to seek a full accounting and to seek justice once and for all.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, it is my understanding that we are now on general debate on S. 4; is that the order of business?

The PRESIDING OFFICER. Actually, we are in morning business until 12:30.

Mr. JEFFORDS. Fine. I will proceed anyway.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

THE FAMILY FRIENDLY WORKPLACE ACT

Mr. JEFFORDS. Mr. President, the legislation that we are discussing today, S. 4, the Family Friendly Workplace Act, is timely, commonsense legislation designed to give working families a much-needed option in balancing their busy work and family schedules. I am extremely pleased that the leadership has made passage of this bill a high priority.

The Family Friendly Workplace Act is intended to provide private-sector employers and employees with the same optional workplace flexibility benefits that public-sector employees have enjoyed since 1978. S. 4 provides three alternative work schedule options: One, compensatory time off in lieu of monetary overtime pay; two, biweekly work schedules; and three, flexible credit hours. I will explain each of these in more detail in a minute. In addition to the workplace scheduling option, S. 4 offers much-needed salary basis reform, and this is a very important problem that we now have as a result of recent court decisions.

Mr. President, there seem to be many misconceptions about what this legislation does and what it doesn't do. I appear today to clear that up.

I wanted to go over, first, the four components of S. 4. I believe this will give some of my colleagues a better understanding of this bill.

The first component of S. 4 is the compensatory time provision. S. 4 would amend the Fair Labor Standards Act's overtime provisions to allow employers to offer their employees the option of compensatory time off instead of traditional overtime pay.

In other words, you can trade the time and a half pay for compensatory time off. This provision will allow hourly employees the ability to take time off as a result of having worked overtime. Like State and local government employees, private sector employees would accrue comptime at the same rate as an employer's normal rate of overtime pay, that is 1½ hours of compensatory time off for every hour of overtime worked.

This legislation is not mandatory. It does not require employers to offer compensatory time off. If employers decide to offer the comptime option to their employees, it is up to the employees to decide whether or not to accept it. Employees who are members of unions will choose compensatory time through the collective bargaining process. Nonunion employees, on the other hand, must ''knowingly and voluntarily'' enter into an agreement with their employer for comptime before they perform any overtime work. Again, I want to stress that this provision is purely voluntary.

Mr. President, this legislation goes to great lengths to protect employees. If a nonunion employee does not like the comptime program, he or she may withdraw at any time by providing his or her employer with written notice. The withdrawal of employees who are members of unions will be controlled by the collective bargaining agreement.

I see no reason why unions should be in opposition to this bill.

If an employer finds that its comptime program is not working out, it can cancel its compensatory time off policy by providing the employees who have elected to earn comptime with 30 days with written notice. Again, there is nothing compulsory about this law at all.

Employees are also permitted to cash out—receive the case equivalent of their accrued comptime—at any time.

Let me repeat that. Employees are permitted to cash out—receive the pay equivalent of their accrued comptime—at any time. So even if an employee selects the comptime option, if that employee decides at a later date that he or she needs the overtime pay instead of time off, the employee has the ability to cash out, to get cash for their overtime work.

An employee will also receive the cash equivalent of any unused compensatory hours whenever an employer discontinues its compensatory time policy or in situations where an employee withdraws, resigns or is terminated.

The employer must cash out the employee's compensatory time at either the employee's overtime rate or the

employee's final rate of pay, depending on which is greater.

The legislation allows an employee to accrue up to 240 hours of compensatory time during a 12-month period. If, after the 12-month period, an employee has not used his accrued time, the employer has 31 days to remit the cash equivalent of those hours. If an employee has accrued over 80 hours at any time, an employer may remit the cash equivalent of those excess hours, in lieu of the employee taking time off.

While opponents of the legislation fear that employers will control when an employee will be able to use accrued compensatory time off, their concern is unfounded. The bill clearly states that an employee must be allowed to use his or her accrued compensatory time off within a reasonable period of time provided that the time off will not unduly disrupt the workplace. This portion of the bill mirrors what is already firmly established, strongly recognized, and upheld in the FLSA and the regulations applying to the public sector.

Under a compensatory time off program, an employee enjoys the preexisting protections of the Fair Labor Standards Act, including prohibitions against violations of section 7 and FLSA's discrimination provision, as well as S. 4's anticoercion provision, which will be an additional provision of FLSA. No employee may be coerced, intimidated or threatened to accept any of the bill's flexible workplace options. Violation of any of these provisions submits an employer to additional liability including liquidated damages and any other viable remedy at law or equity.

BIWEEKLY WORK SCHEDULES

The second alternative is a work scheduling option called biweekly work schedules. Biweekly schedules give employees the option of scheduling 80 hours at any time within a 2 week period rather than confining employees to scheduling 40 hours in 1 week. This greater flexibility gives employees the ability to create schedules that coordinate their work responsibilities with their personal obligations.

That is an important thing to know. This gives the employees the flexibility to try to manage their hours within the 2-week period to take care of their own personal problems, whether it is with schools, day care, or whatever else it is—to make everything a little bit more flexible, a little bit more friendly to the family.

Just as the election of compensatory time is voluntary, so too, is the election of biweekly work schedules. Employers do not have to offer biweekly schedules and any employee who is not interested in a biweekly schedule and may keep a traditional work schedule.

Again, I want to emphasize that the biweekly schedule is completely voluntary. Employees who are satisfied with the existing 40 hour work week are under no obligation to enter into a biweekly schedule arrangement with their employer.

An employee who wants to work under a biweekly schedule must meet with his or her employer prior to each 2-week work period and prearrange a schedule for that period. Regardless of how the hours are divided, the employee will not be required to work past 80 hours during the 2-week period. An employer will have to pay overtime for any deviations from the schedule. Any hours that an employer requests the employee to work beyond the predetermined 80 scheduled hours are considered overtime.

So overtime provisions are maintained. Again, it is totally voluntary. So the employees have flexibility and have an understanding of what happens if the employer asks them to deviate from that schedule.

Once the biweekly period begins, an employer cannot alter an employee's scheduled hours to meet the employer's overtime needs. Even if the employee has worked less than 40 hours during the week, if an employer asks the employee to work hours in addition to the preset schedule, the additional time is considered overtime.

Under S. 4's biweekly work schedule provisions, employees enjoy the preexisting safeguards of the FLSA. Employees will also benefit from S. 4's provisions prohibiting an employer from directly or indirectly intimidating, threatening, or coercing an employee to participate in a biweekly schedule program.

Again, there is very strong protection for the employee to be protected against any abuse by the employer.

For union employees, the particulars of a biweekly work schedule, such as hours to be worked and methods of withdrawal, will be set forth in a collective bargaining agreement.

There is no reason why any union should disagree with this. If unions do not care for the biweekly scheduling option, they do not have to select it.

In the nonunion setting, an employee would enter into an agreement with his or her employer. Again, it is totally at the option of the employer and the employee.

Because biweekly work schedule programs are voluntary, nonunion employees may withdraw their agreement to participate by providing written notice to the employer. Similarly, an employer may discontinue a biweekly work schedule program upon 30 days notice to all participating employees.

The third provision may seem new to some of you but, again, we have taken this concept—that of flexible credit hours—from the public sector.

FLEXIBLE CREDIT HOURS

It is not uncommon for employees to need to take unpaid leave for common life events such as caring for a loved one, assisting an elderly parent or studying for an exam. Employees may wish to work additional hours, in excess of the traditional 40 hour week, in order to bank those additional hours for future use.

Under the FLSA, however, an hourly employee is not permitted to carry over additional hours for use in a future work week. Instead, the employer would have to pay overtime for the additional hours worked by that employee. Employers who have no need for their employees to work extra hours are unlikely to be willing to pay employees an overtime premium. As a result, there is really a disincentive under the FLSA for employers to provide employees with the flexibility that they demand.

To assist employees who would like to accrue hours for future use, the third provision in this legislation is the flexible credit hour program. The flexible credit hour program would allow an employee to request to work up to 50 hours over his or her regularly scheduled hours.

Flexible credit hours are awarded on a one-to-one ratio: 1 credit hour for one hour over an employee's regular schedule. Each hour is a flexible credit hour which is then banked for future use. When employees use their flexible credit hours they are compensated for their time off at their regular rate of pay.

Therefore, employees wishing to take an additional week of vacation would have the ability to work 2 extra hours a week for 20 weeks and then use the 40 flexible credit hours that they have banked so that they collect a regular paycheck on their extra week off.

It is very, very important for workers that are trying to plan their time off and who are trying to coincide with school vacations, or other family events that will require them to be away from work.

Allowing employees to bank hours would also provide the millions of Americans who do not work overtime hours with more flexibility because it would give them the ability to work additional hours so that they could use the paid time off when necessary.

As with compensatory time and biweekly programs, an employer has the initial decision of whether to offer the flexible credit hour program. However, once an employer offers the program, whether an employee participates is 100 percent voluntary. If an employee elects to participate, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accrue flexible credit hours.

The anticoercion, remedy, and sanction provisions applicable to compensatory time-off options and biweekly work schedule programs apply to the flexible credit programs as well.

Compensation for unused accrued credit hours is handled in much the same way that compensation for unused compensatory time is handled. If an employee has not used all his or her credit hours within a 1-year period, the employer is required to cash out the employee's remaining credit hours at the employee's normal rate of pay. An employee must be allowed to use accrued credit hours within a reasonable period of time following the request so

long as doing so will not unduly disrupt the workplace. This program's particulars also track those of both the compensatory time off option and the biweekly work schedule program. Employees remain entitled to the same protections and remedies, agreement, accrual, withdrawal, and notice requirements.

These are all just merely required because the FLSA and the 40-hour work week are so rigid that it is very difficult for employees and employers to arrange things such that they can help employees to better manage the obligations of work and family.

The final provision of S. 4, the salary basis fix, may seem a bit arcane, but it is a very serious problem.

The fourth provision impacts the treatment of salaried employees rather than hourly wage employees.

The final portion of this legislation helps clarify a problem that has arisen under the ''salary basis'' test. In recent decisions, courts have clouded the salary basis test and caused unnecessary litigation and windfall awards for highly paid employees. This portion of the legislation simply clarifies who is and who is not an exempt employee to prevent additional unfair payments of overtime back pay to salaried employees.

Under the salary basis test, an employee is considered to be paid on a salary basis, and thus exempt from FLSA, if that employee regularly receives a straight salary. The FSLA provides that an exempt employee's salary cannot be—subject to reduction for absences of less than a day. A number of court cases, however, have interpreted this language to mean that the theoretical possibility of a salary being docked—that is, decreased—for an absence of less than a day is enough to destroy the employee's exemption even if that employee has never experienced an actual deduction.

It is one of those things where the Court has found something they believe to be an accurate interpretation of the law. When in fact it is not Congress' intent for the law to work this way. The impact that it has can be incredibly destructive.

For more than 5 decades the ''subject to'' language generated little or no controversy. In recent years, however, courts began to interpret the salary-basis standard, seizing upon the ''subject to'' language, large groups of employees, many of them who are highly compensated, have won multimillion-dollar judgments. These awards have been granted in spite of the fact that many of the plaintiff employees have never actually experienced a pay deduction of any kind and have never expected to receive overtime pay in addition to their ''executive administrative or professional'' salaries. This problem has been particularly onerous in the public sector.

I want to be clear that the bill is intended to clarify that an employee would not lose his or her exempt status just because his or her employer has a policy on the books that provides for a reduction in pay for absences of less than a full day or less than a full week. Those employees should remain exempt and this bill would ensure that happens. However, if an employee's salary was actually docked, the legislation would not affect the outcome as to that employee.

Again, I want to emphasize that if an employer docks the pay of a salaried employee, that employee could still lose his or her exempt status, but only if it has been docked.

The legislation also clarifies that employers may give bonuses and overtime payments to salaried employees without destroying their exemption from the FLSA. That is the opposite side of the equation.

Finally, Mr. President, while the FLSA was enacted to protect workers, many of today's work force view certain of the FLSA provisions as harmful rather than helpful. Given the overwhelming success of public sector programs which S. 4 is modelled after here, I believe it is important that Congress now extend the same freedom and flexibility to private workers.

Again, I emphasize this is voluntary for both parties. The flexible work schedules would give employees more control over their lives by giving them a better tool to balance their family and work obligations. Employers and hourly employees must be given the ability to reach agreement on flexible schedules beyond the standard of the inflexible 40-hour workweek and to bank compensatory time in lieu of cash overtime where such an agreement is mutually beneficial, and voluntarily entered into. Salary-basis reform for nonexempt employees would also increase flexibility options.

The FLSA should be amended to assist workers in balancing the needs of an evolving work environment and quality family time.

I thank most of all Senator ASHCROFT, who has been the leader in this fight and who has done an outstanding job of bringing the attention to this legislation, not only to the Members, but nationwide. I look forward to working with him and Senator DEWINE on this bill. Mr. President, as I discuss the wonderful provisions in this legislation I can't help but wonder why anybody could oppose it, but I expect that some of my colleagues will express a differing view.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Ohio is recognized.

Mr. DEWINE. Madam President and colleagues, let me first congratulate Senator JEFFORDS for bringing this bill to the floor and for a very eloquent statement about the merits of this bill. I see Senator ASHCROFT, who is the author of the bill, in the Chamber. I know he wishes to speak about the bill, as I do. I also see Senator KENNEDY, who wishes to speak as well. Before I begin to talk about this bill, I would like to talk about two other items.

SHERIFF RUSSELL A. BRADLEY

Mr. DEWINE. Madam President, I rise this morning to note the passing of a friend and former colleague. Russell A. Bradley died yesterday morning. It was to me rather ironic that as I heard the news, I was preparing to go to a Judiciary Committee hearing to talk about the crime problem in this country because Sheriff Bradley, Russell Bradley, was my home county sheriff for 30 years. Russell Bradley was a dedicated public servant, a great politician, and was my friend. Russell Bradley served as Greene County Sheriff from 1957 to 1987. For 30 years, Russ Bradley was the sheriff. Elected eight times, he built the Greene County sheriff's office into the professional organization that it is today and that today we, frankly, take for granted. It was not so when he became sheriff in January 1957.

I first met Russ Bradley when I was a young boy growing up in the village of Yellow Springs. Russ Bradley at that time was the chief of police. Russ Bradley was a person whom you would go to if you had a problem in the community. I remember talking with him, being with him, fishing with him when I was a very, very young boy. In 1956, when I was 9, Russ Bradley was elected county sheriff. He ran in the Republican primary and beat the incumbent, a shock to everyone across the county. Frankly, it was a shock to most of us who were his friends because we did not think he could win. That was the first of eight victories he won running for the office of sheriff in Greene County.

He remained sheriff long enough so that a 9-year-old boy who knew him when he was first elected had an opportunity to grow up, go away to college, go to law school, come back home and become assistant county prosecutor and then have the opportunity to work on a professional basis with Sheriff Bradley. I had a chance for a little over 2 years to serve as assistant county prosecutor, then to serve as the elected county prosecutor for 4 more years. I had the opportunity then to see this man whom I had known as a young boy, to see him up close and personal and work with him literally on a daily basis as we dealt with crime problems in our county.

Russ Bradley really taught a whole generation, really two generations of Greene County and Ohio public servants and politicians how to win elections. He was the person we watched, we copied, we emulated, we stole ideas from. He was literally the master and we were the students. He taught us how to campaign door to door and the significance of that, the tenacity to continue to do that night after night. He taught us how to work the county fair. He even taught us things such as how to go out and put your signs along the